

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Case No.
)
 TERRA INTERNATIONAL, INC.,)
)
 Defendant.)

99-0363 S

STIPULATION, SETTLEMENT AGREEMENT, AND ORDER

Plaintiff, United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), having filed a Complaint against the Defendant Terra International, Inc. ("Terra"), pursuant to Section 113(b) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(b), alleging violations of the Act and regulations promulgated thereunder, including violations of an air pollution control operation permit issued pursuant to the Wisconsin State Implementation Plan ("SIP"), federally enforceable and approved by U.S. EPA pursuant to the Act; and Defendant not having answered the Complaint; and Plaintiff and Defendant having agreed that settlement of this matter is in the public interest and that entry of this Order without further litigation is the most appropriate means of resolving this matter; and the Court having been duly advised of these premises;

NOW THEREFORE, before the taking of any testimony, without adjudication or admission of any issue of fact or law, and upon consent and agreement of the parties to this Stipulation, Settlement Agreement and Agreed Order, it is hereby

AGREED, ORDERED, and ADJUDGED:

1. Within thirty days after entry of this Stipulation and Settlement Agreement ("Settlement Agreement") and as an Order of the Court, Defendant shall pay a civil penalty in the sum of \$45,000 to the United States of America to resolve the civil claims alleged in the Complaint. The penalty specified herein shall represent civil penalties assessed by the United States and shall not be deductible for purposes of federal taxes. Payment shall be made to the United States by Fedwire Electronic Funds Transfer ("EFT") to the Federal Reserve/U.S. Treasury Department in New York City for credit to the U.S. Department of Justice. Any EFTs received at the Federal Reserve Bank prior to its time of closing will be credited that business day.

The following information must be provided to the bank making the Electronic Transfer of Funds:

Receiving Bank ABA Code	021030004
Message Type Code	1000
Amount to be Transferred	<u>\$ 45,000.00</u>
Receiving Beneficiary Bank, Name, and Account Number	TREASNYC/CTR/BNF = DEPT OF JUSTICE/AC-15030001
Collection Office Identifier	U.S. Attorney, WIW
Debtor's Name Collection Office Claim Number	99Z0119

On the date of payment, written notice of payment must be sent by telefax to the U.S. Attorney's Office for the Western District of Wisconsin, Financial Litigation Unit, Attention: Donna Hughes. Fax number (608) 264-5724.

2. Defendant shall also transmit evidence of such payment to the United States and EPA at the following addresses:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7611
Washington, D.C. 20044
Re: DOJ 90-5-2-1-2219
Fax: (202) 514-0097

Maria Gonzalez
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency - Region V
77 West Jackson Boulevard
Chicago, Illinois 60604
Fax: (312) 886-0747

Michelle Farley
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency - Region V
77 West Jackson Boulevard
Chicago, Illinois 60604
Fax: (312) 353-8289

3. Upon receipt of payment of the civil penalty referred to above, the United States shall file a notice with the Court, indicating that payment has been received, and that the United States of America's Complaint against Defendant is dismissed with prejudice, with each party bearing its own costs and attorneys' fees.

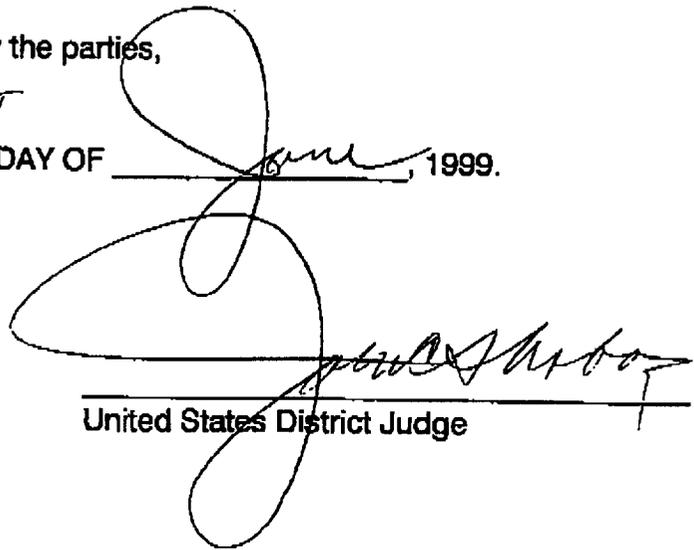
4. If the civil penalty provided for in this Settlement Agreement is not timely paid, this Settlement Agreement shall be considered an enforceable judgment for purposes of post-judgment collection of any unpaid amount in accordance with Rule 69 of the Federal Rules of Civil Procedure, the Federal Debt Collection Procedure Act, 28 U.S.C. §§ 3001-3308, and any other applicable federal authority. The United States shall be entitled to interest on any overdue amount from the due date at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. Further, Defendant shall be liable for reasonable attorneys' fees and costs incurred by the United States to collect any amount due under this Settlement Agreement.

5. This Court shall retain jurisdiction for the purpose of interpreting and enforcing this Settlement Agreement.

6. The undersigned representatives of each party to this Settlement Agreement certify that they are fully authorized by the party he or she represents to enter into the terms and conditions of this Settlement Agreement, and may execute and legally bind that party to the Settlement Agreement.

As stipulated and agreed to by the parties,

SO ORDERED THIS 1ST DAY OF June, 1999.



United States District Judge

United States v. Terra International, Inc.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA,
Plaintiff

PEGGY A. LAUTENSCHLAGER
United States Attorney

By:

Date: 5/28/99



LESLIE K. HERJE
Assistant United States Attorney
660 W. Washington Avenue
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P.O. Box 1585
Madison, WI 53701-1585
(608) 264-5158

Date: 5-24-99



JOEL M. GROSS
Chief, Environmental Enforcement Section
Environment and Natural Resources
Division
United States Department of Justice

Date: 5/25/99

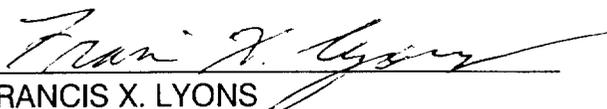


MARY REED, Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice
Post Office Box 7611
Washington, D.C. 20044
(202) 514-2580

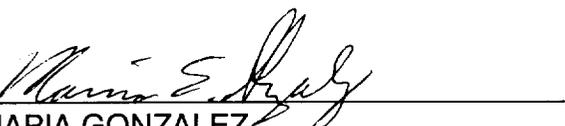
Counsel for Plaintiff

United States v. Terra International, Inc.

Date: 5-17-99


FRANCIS X. LYONS
Regional Administrator
United States Environmental
Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

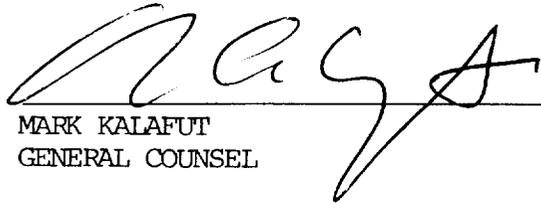
Date: 5/4/99


MARIA GONZALEZ
Associate Regional Counsel
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United States v. Terra International, Inc.

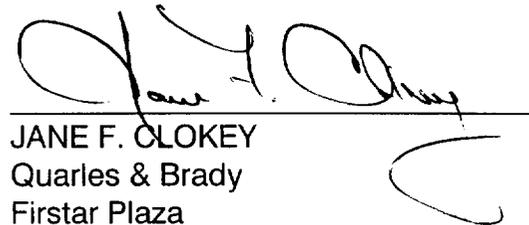
FOR TERRA INTERNATIONAL, INC.,
Defendant

Dated: 4/28/99



MARK KALAFUT
GENERAL COUNSEL

Dated: 4/28/99



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Counsel for Defendant